

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AMERICOAL CORPORATION)	
)	
COMPLAINANT)	CASE NO.
)	90-108
VS.)	
)	
BOONE COUNTY WATER AND SEWER DISTRICT)	
)	
DEFENDANT)	
)	
AN INVESTIGATION OF BOONE COUNTY WATER)	
AND SEWER DISTRICT)	
)	
)	CASE NO.
)	91-220
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.160(2))	

O R D E R

Boone County Water and Sewer District ("Boone District") has moved for a stay of enforcement of the Commission's Order of July 5, 1991 which prohibited its collection of unauthorized sewer tap-in fees. Contending that these fees are an important part of its monthly revenues and that the curtailment of their collection may disrupt the operation of its sanitary sewer system, Boone District seeks authority to continue their collection, subject to

refund, pending final resolution of this matter. Boone District also moves that this matter be consolidated with Case No. 90-108¹ and be held in abeyance pending the outcome of Boone District's motion for decision in that case.

Boone District's motion for stay of enforcement should be denied. KRS 278.160(2) prohibits a utility's assessment and collection of unpublished fees and rates. In its motion, Boone District does not dispute the allegation that its sewer tap-in fee is neither prescribed in its filed rate schedule nor authorized by the Commission. Any action authorizing the continued assessment and collection of such fee, therefore, would be contrary to the Commission's statutory duty to enforce the provisions of KRS Chapter 278.

The Commission finds that the motion to consolidate should be granted. Case Nos. 90-108 and 91-220 deal with Boone District's sewer tap-in fee. They involve common questions of law and fact. Their consolidation will avoid the needless duplication of administrative proceedings and unnecessary costs and delay.

As we have ruled on Boone District's motion for decision in Case No. 90-108,² its motion for abeyance in this case is moot and will not be addressed.

¹ Case No. 90-108, *Americoal Corporation v. Boone County Water and Sewer District*.

² Order dated August 21, 1991.

IT IS THEREFORE ORDERED that:

1. Boone District's motion for a stay of enforcement of the Commission's Order of July 5, 1991 is denied.

2. Boone District's motion to consolidate is granted.

3. Case Nos. 91-220 and 90-108 are hereby consolidated.

4. Within 20 days from the date of this Order, Boone District shall serve written notice of these proceedings upon all persons which it has assessed a sewer tap-in fee. This notice shall describe the nature of these proceedings, shall advise each person of his right of intervention pursuant to Commission Regulation 807 KAR 5:001, Section 3(8), and shall state the time and place of the scheduled hearing in this matter.

5. Within 20 days of the date of this Order, Boone District shall certify to the Commission in writing that it has complied with all provisions of this Order and the Commission's Order of July 5, 1991.


Done at Frankfort, Kentucky, this 21st day of August, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director

Commissioner